

NCSL

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Restoring Federalism

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Dual Sovereignty

- “By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual.”
 - Justice Anthony Kennedy, *United States v Bondput*

Framework for Federalism

■ Amendment X

- The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

■ Article I; Section 3, Clause 1

- The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof...

■ Amendment XVII

- The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof...

Federalism and the Budget

- More than 30% of state revenues come from Federal Government (Range: 18-42%)
- State Budgeting: States balance budgets, the federal government does not.
- Fiscal Year Conflict: Biannual Budgeting; July-June Fiscal Year

Persistent Threats

- Unfunded Mandates
- Preemption
- Maintenance of Effort
- Commerce Clause

Rebalancing

Wins

- Welfare Reform
- Unfunded Mandates Reform Act
- *U.S v. Lopez; NFIB v. Sebelius*

Opportunities

- Every Student Succeeds Act
- Speaker's Task Force on Intergovernmental Affairs
- International Trade

Issues of the Day

- Health Care
- Education
- Infrastructure
- Environmental Protections
- Marijuana
- Immigration
- Tax Reform

Collaborative Federalism

- **Exercise Federal Forbearance**
- **Avoid Federal Preemption of State Laws and Policies**
- **Share savings**
- **Avoid cost shifts/unfunded mandates**
- **Increase state flexibility**
- **End maintenance of effort (MOE) provisions**

Exercising Collaborative Federalism

- Act: No need to ask for permission
- Coordinate: Regional planning; Best Practices
- Educate: Inform and direct federal action
- Accountability: Hold federal officials accountable for protecting state authority, promoting innovation and preserving fiscal sovereignty

United States

